

**From:** john johnston  
**To:** Microsoft ATR  
**Date:** 12/10/01 3:37am  
**Subject:** Microsoft Settlement

U.S. Department of Justice,

I am writing with respect to the proposed settlement of the U.S. v. Microsoft case. I believe that this proposed settlement is so full of loopholes as to make a complete mockery of the fact that Microsoft was in fact found guilty of antitrust laws.

Of particular concern to me is the wording in Section III(J)(2) and Section III(D). As you are undoubtedly aware of, Microsoft has recently become aware of the fact that "open source" software is a major threat to their growing monopoly control of the information infrastructure. Microsoft executives have publicly characterized open source software as: "viral", "a cancer upon society", and "un-American". The wording of this proposal is carefully crafted as to allow Microsoft to transition from this absurd rhetoric to direct action against open source software.

During the trial, Microsoft often stated that they were not guilty of wrongdoing, but rather they were only exercising their right to "innovate" for the good of the users of Microsoft software. This is ridiculous for many reasons, the least of which is that Microsoft is not a major innovator of technology. Microsoft excels at imitation, acquisition, funding, and crafting restrictive business agreements. (To be fair, Microsoft has contributed some valuable technical innovation, especially in the area of computer usability techniques.)

On the other hand, over the last 20 plus years we have experienced an enormous outpouring of innovation centered around the Internet. The fuel for all of this innovation is the fact that the Internet is based on open non-restrictive protocols, (TCP/IP), and open source software. The key to this innovation is that the foundation of the Internet is in the public commons. If a large corporation, (such as Microsoft), developed the Internet, it wouldn't be the Internet. It would resemble what transpires on the so called "public airwaves". If given the chance, Microsoft would enthusiastically work on creating this kind of vision out of the Internet. The proposed settlement not only gives them the chance, but seems to encourage them.

When I read the proposed settlement, I can clearly see the contribution of lawyers on the Microsoft payroll. Unfortunately, I can't see the contribution of the lawyers on the taxpayer payroll, nor can I see evidence of lawyers working for the public good.

Thank you for considering my input

john johnston  
16515 Bryant Rd.  
Lake Oswego OR 97035  
(john@earacuity.org)